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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,241	11/17/2003	Terri P. Cleveland	89843.125003	5002
23469	7590	12/22/2005		
JAECKLE FLEISCHMANN & MUGEL, LLP 190 Linden Oaks ROCHESTER, NY 14625-2812			EXAMINER AYRES, TIMOTHY MICHAEL	
			ART UNIT 3637	PAPER NUMBER

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/715,241	CLEVELAND ET AL.	
	Examiner	Art Unit	
	Timothy M. Ayres	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 19-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/25/04, 7/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a first office action on the merits of application SN 10/715,241.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 14 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how a bungee cord is to support an object when it is attached to only one knob.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1, 3, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: structure of the safe (casing).

6. Regarding claim 1, the preamble sets forth "a safe" yet line 2 of claim 1 uses the term "adapted to be positioned on an interior surface" which does not claim the safe.

The scope of the claim is unclear.

7. Claim 3 recites the limitation "said rear wall" in line 2. There is insufficient antecedent basis for this limitation in the claim.

8. Regarding claim 13, the imitation of said interior of said safe has not been positively recited, and therefore the three interior walls cannot be claimed.

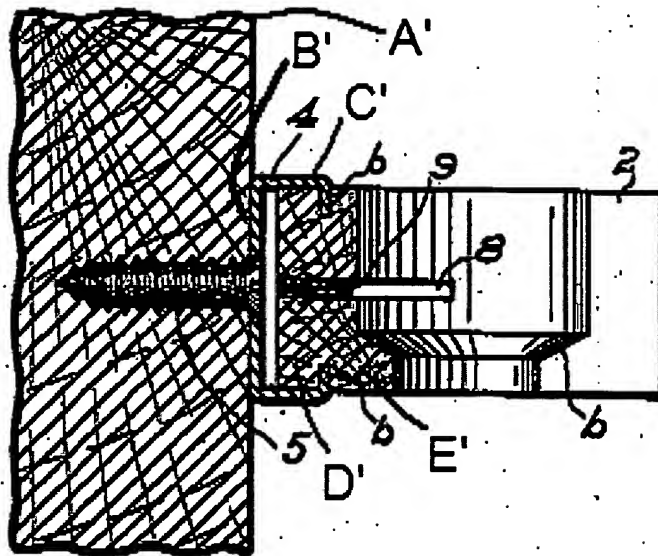
Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

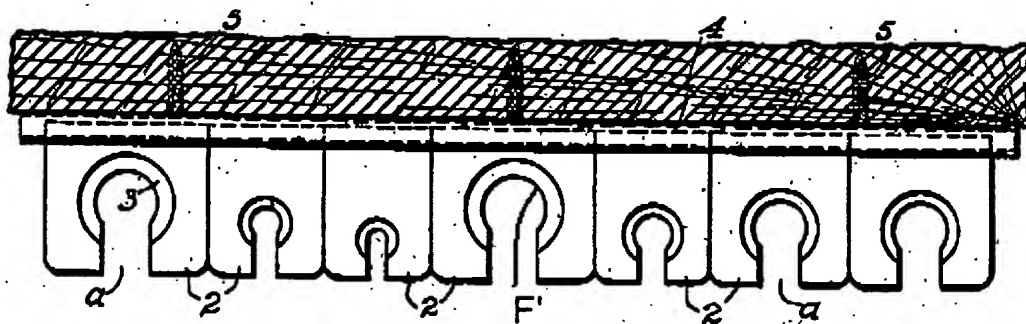
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-3 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 2,371,433 to Davis. Davis '433 discloses a tool supporting rack that comprises a bracket (4) attached to a wall (A') via screws (5) and barrel receiving modules (2) received by the bracket (4). The inside of the seat (3) creates the barrel-receiving cradle (F') on the barrel-receiving module (2). Grooves (6) with parallel walls on the barrel-receiving module (2) create a rear wall (E') and a clip (D') that is movably received by the bracket (4). The bracket (4) has first leg (B') that is offset from a second leg (b) by a transition member (C') so that the two legs (B', b) are parallel with each other as best seen in the marked up figure 3 below.



Davis '433 Figure 3

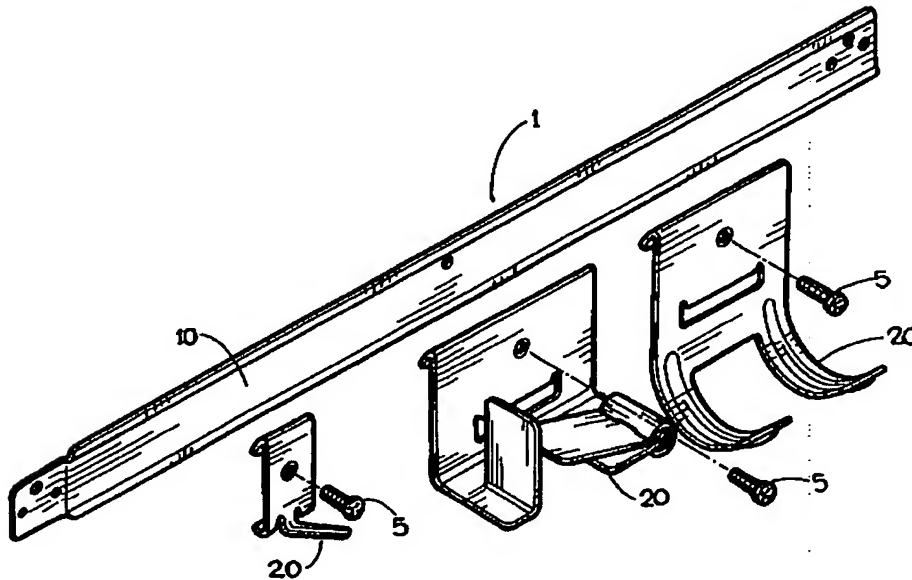
11. The examiner considers the tool rack of Davis to be capable of holding barrels of guns and also considers a gun to be a type of tool. The firearm and the safe structure (walls, doors, and casing) are not positively recited.



Davis '433 Figure 1

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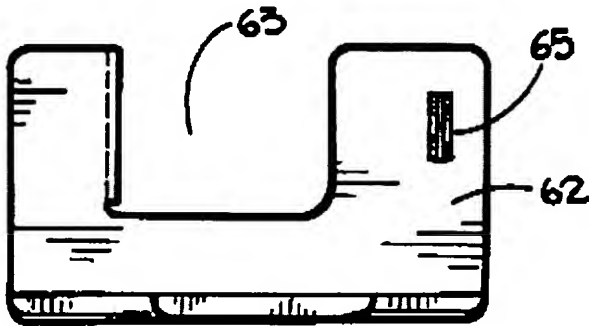
12. Claims 1, 2, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,687,856 to Kendrena. Kendrena '856 discloses a tool rack with a bracket (10) that receives a barrel-receiving module (20,60). The barrel-receiving module (60) has a barrel-receiving cradle (63). A clip (30) and a secondary clip (33) of the barrel-receiving module (60) are movably received by the bracket (10). The clip (30) extends from the rear wall of the barrel-receiving module (60). The barrel-receiving module (60) is L-shaped as best seen in figure 6c.



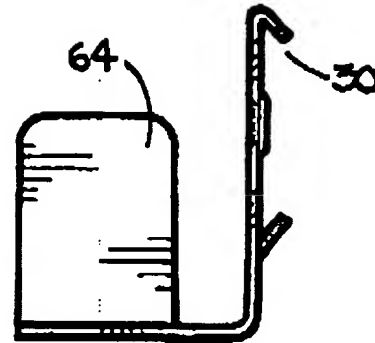
Kendrena '856 Figure 1

13. The examiner considers the tool rack of Kendrena to be capable of holding barrels of guns since it is disclosed as holding tool handles (99) and tool handles (99)

have the same shape as the barrel of a gun.



Kendrena '856 Figure 6b

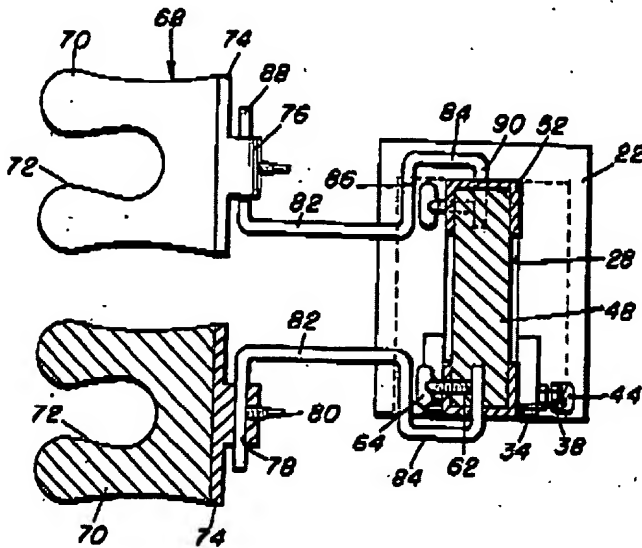


Kendrena '856 Figure 6a

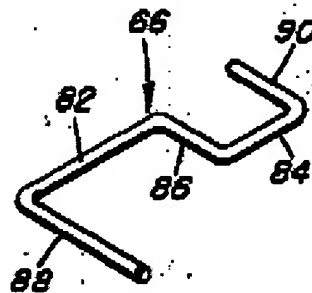
14. Claims 1, 2, 4, and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 2,783,896 to Agostini. Agostini '896 discloses a gun rack (10) with a bracket (48). A barrel-receiving module (68) has a barrel-receiving cradle (72). A plate (74) with a clip (76) extends from the rear wall of the barrel-receiving module. A bore (78) is in the clip (76), which allows an extension module (66) to be movably received and thereby allowing the barrel-receiving module (68) to be movably mounted to the bracket (48) since the extension module (66) is movably mounted to the bracket (48). The extension module (66) includes a first side (82) with a first extension clip (88) extending therefrom and a second side (84) with a second extension clip (90) extending therefrom. The first and second extension clips (90,88) are parallel and in opposite directions as seen in figure 2. Please note that the examiner considers a clip to be any device that grips or clasps, which the bores (58,78) do to the rod shape of the extension

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module with the help of set screws (80,64). Also, it should be noted that the bracket (48) is capable of being adapted on an interior surface of a safe (floor).



Agostini '896 Figure 3



Agostini '896 Figure 2

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

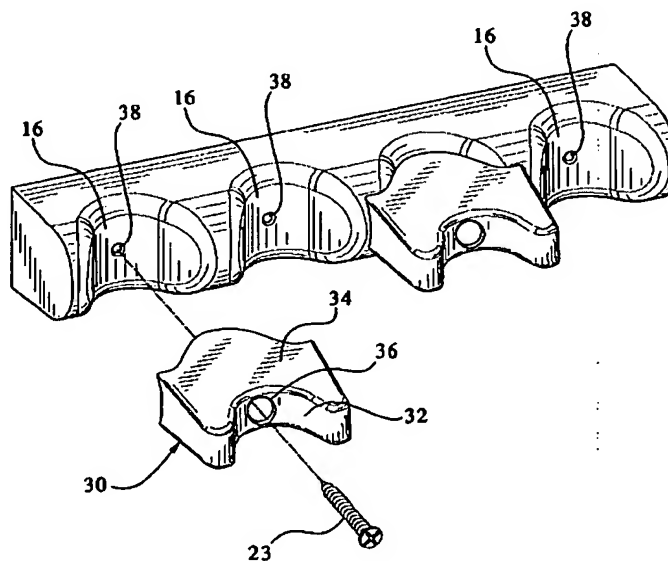
16. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

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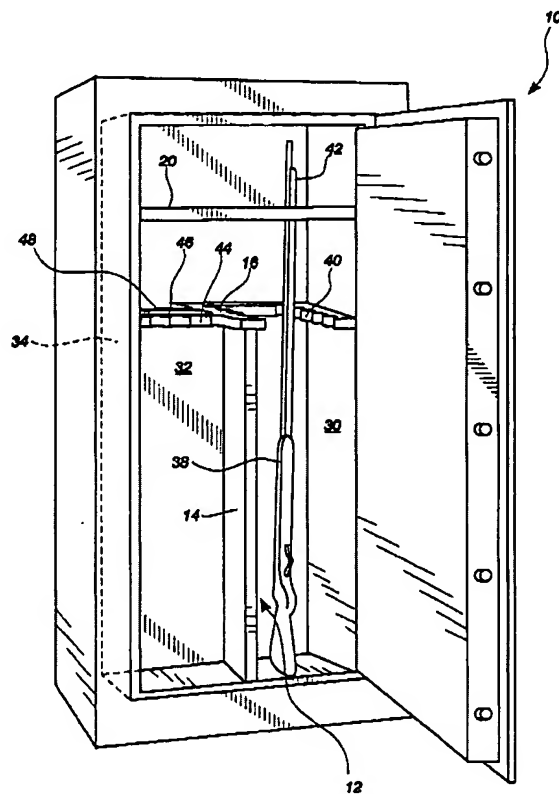
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

17. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 2,371,433 to Davis in view of US Patent 6,415,932 to Fiscus. Davis '433 discloses every element as claimed and discussed above except the barrel receiving module further comprising an extension module that includes a coupling end that is adapted to be received in the barrel receiving cradle. Fiscus '932 teaches a gun barrel module (10) with barrel receiving cradle (16). An extension module (30) has a coupling end that is received in the barrel-receiving cradle (16) and secured using a screw (23). At the time of the invention it would have been obvious for a person of ordinary skill in the art to use the teaching of Fiscus to add an extension module to the gun barrel module of Davis to allow for scoped and non-scoped guns to be supported in the safe (Fiscus '932, col. 1, lines 35-40).



Fiscus '932 Figure 4

18. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,042,207 to Crosby in view of US Patent 2,371,433 to Davis. Crosby '207 discloses a configurable safe (10) that stores firearms (42). The safe has a shelving system (20,22,24,26,28) that can be removed for access to a gun rack (16). The interior of the safe has three interior walls (30,32,34) and a door as shown in figures 1 and 2. The gun rack has barrel-receiving cradles (40,44,46) including one in the corner as best seen in figure 3.

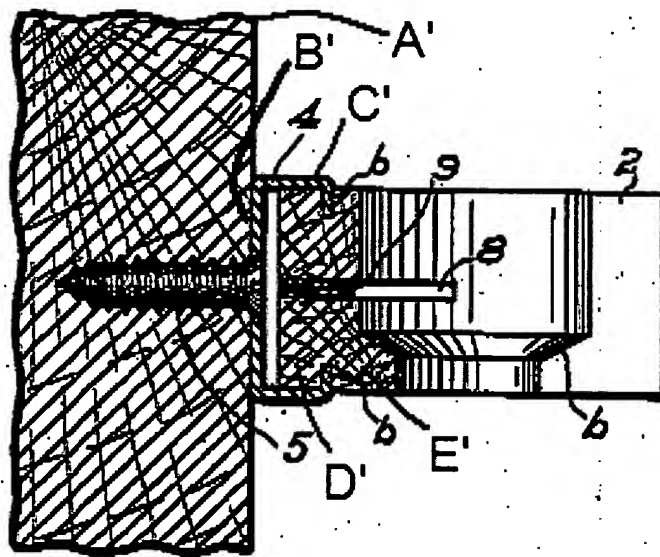


Crosby '207 Figure 2

19. Crosby '207 does not expressly disclose a bracket receiving a clip of a barrel-receiving module with a barrel-receiving cradle, the clip extending from and parallel to a

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rear wall of the barrel-receiving module, and the bracket including first and second legs parallel and offset from each other with a transition member between. Davis '433 discloses a tool supporting rack that comprises a bracket (4) attached to a wall (A') via screws (5) and barrel receiving modules (2) received by the bracket (4). The inside of the seat (3) creates the barrel-receiving cradle (F') on the barrel-receiving module (2). Grooves (6) with parallel walls on the barrel-receiving module (2) create a rear wall (E') and a clip (D') that is movably received by the bracket (4). The bracket (4) has first leg (B') that is offset from a second leg (b) by a transition member (C') so that the two legs (B', b) are parallel with each other as best seen in the marked up figure 3 below.

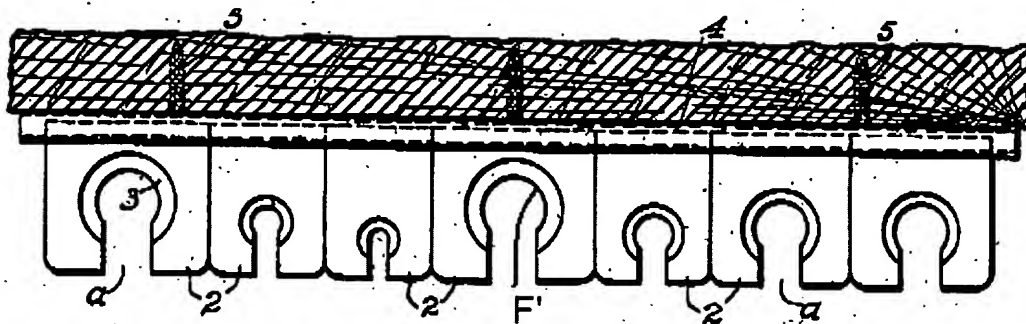


Davis '433 Figure 3

20. The examiner considers the tool rack of Davis to be capable of holding barrels of guns and also considers a gun to be a type of tool. At the time of the invention it would have been obvious for a person of ordinary skill in the art to take the safe of Crosby and

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modify it to receive the bracket and barrel receiving module of Davis on at least one interior wall by removing part of the existing rack of Crosby so that the interior can be arranged/changed to receive different sized tools (Guns) quickly (Davis '433, col. 1, lines 5-11).



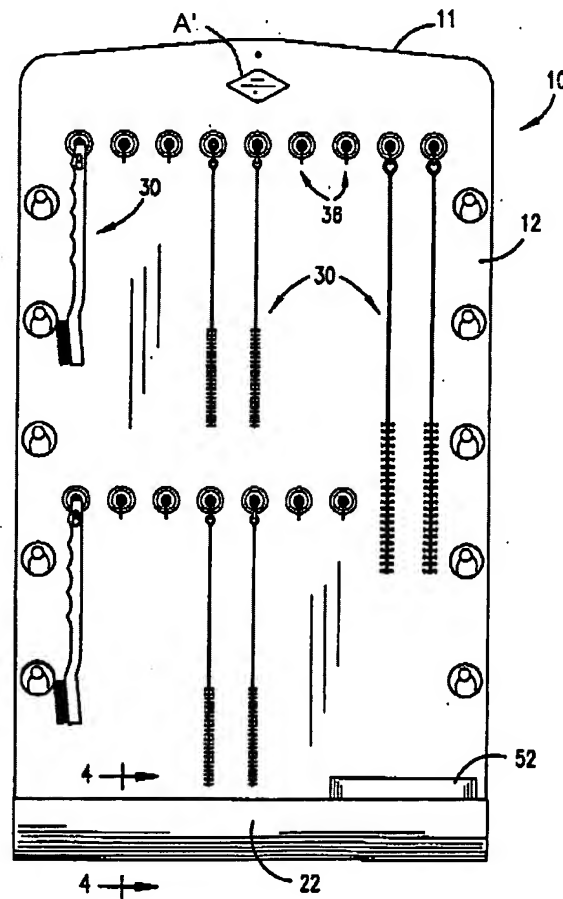
Davis '433 Figure 1

21. Claim 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,042,207 to Crosby in view of US Patent 2,371,433 to Davis as applied to claims 12 and 13 above, and further in view of US Patent 5,921,407 to Kabanek.

Crosby '207 modified by Davis '433 discloses every element as claimed and discussed above except the internal surface of the door have knobs, a lip for further supporting articles, and a name plate and hook panel with hooks on it. Kabanek '407 discloses a panel (12) with a lip (13, 20). Hooks (36) are attached to the panel (12) and as best understood a nameplate (A') is located near the top of the panel (12). The examiner considers that the hooks (36) are capable of holding a bungee cord and some can be used as such and in combination with the lip to support articles and while the others are the series of hooks as recited in claim 15. The hooks are also functionally equivalent to

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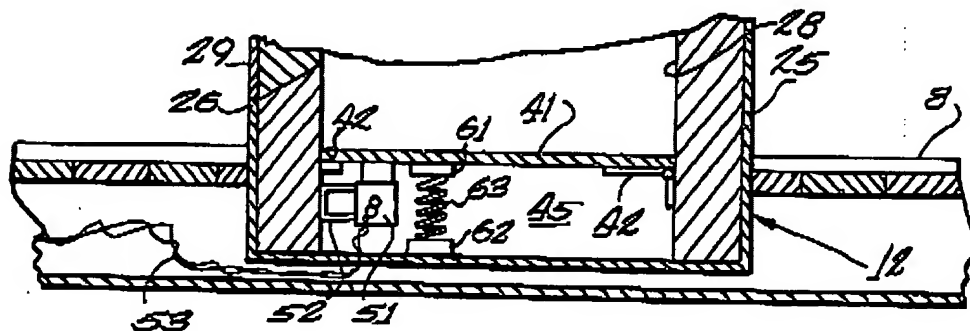
knobs. At the time of the invention it would have been obvious for a person of ordinary skill to mount the panel of Kabanek to the door of Crosby modified by Davis so that the door can have hooks with a pleasant appearance while allowing for articles to be easily picked out and replaced (Kabanek '407, Col. 1, lines 34-42). The bungee cord and the articles held by it are not part of the claim and not given patentable weight. Note: It is also obvious to combine a nameplate with hooks as is done in the majority of young children's classrooms for coat racks.



Kabanek '407 Figure 2

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22. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 2,371,433 to Davis in view of US Patent 3,899,983 to Hernandez. Davis '433 discloses every element as claimed and discussed above except a bottom storage compartment including a removable panel. Hernandez '983 teaches a safe (11,12) with a concealed compartment (45) in the bottom that is covered by a panel (41). At the time of the invention it would have been obvious for a person of ordinary skill in the art to take the bracket of Davis and to put it in the safe of Hernandez so that a hidden and unnoticeable concealed compartment can be used to keep valuables extra safe while have a rack for tools (Hernandez '983, Col. 1, lines 33-44).



Hernandez '983 Figure 4

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Design Patent 126,088 to Clouse discloses a cabinet with guns supported in the corner. US Design Patent 476,782 to Huddleston discloses a cabinet with a bottom compartment. US Patent 5,224,609 to Bauer discloses a barrel

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receiving module with two clips and a general L-shape. US Patent Publication 2003/0011291 to Moreno-Olguin discloses a door with knobs and a lip. US Patent 6,637,707 to Gates discloses a barrel receiving module with a clip and bracket setup. US Patent 5,915,572 to Hancock discloses a barrel receiving module with a clip and bracket setup. US Patent 5,772,295 to Sundmark discloses a cabinet with guns and a bottom compartment. US Patent 5,435,641 to Dumon Dupuis discloses a cabinet with a bracket mounted on the surface. US Patent 2,269,940 to Johnson discloses a door with a lip and knobs to help support articles. US Patent 4,209,098 to Adams discloses a bracket with a movably barrel receiving module with a clip. US Patent 5,325,686 to Bently discloses a corner gun barrel receiving module.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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SUPERVISORY PATENT EXAMINER
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